

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSHUA JORDAN

Plaintiff,

v.

MATTHEW PROVINS,

Defendant.

No. 2:23-cv-00287-DJC-CKD (PS)

ORDER

Plaintiff, Joshua Jordan, appearing pro se, filed this fee paid complaint against defendant, Matthew Provins, on February 16, 2023. (ECF No. 1.) On May 1, 2023, defendant filed a motion to dismiss for failure to state a claim, motion to strike, and motion for a more definite statement and set a hearing date for June 7, 2023. (ECF Nos. 15, 10, 16.) On May 15, 2023, plaintiff filed a motion for electronic filing authorization. (ECF No. 20.) Plaintiff also filed a motion for leave to amend but did not file an amended complaint or proposed amended complaint. (ECF No. 18.)

I. Motion for Electronic Filing Authorization, ECF No. 20¹

Generally, “any person appearing pro se may not utilize electronic filing except with the

¹ Plaintiff’s first motion to participate in electronic case filing, ECF No. 6, was denied for failure to show good cause. (ECF No. 8.)

1 permission of the assigned Judge or Magistrate Judge.” See E.D. Cal. L.R. 133(b)(2).

2 In his motion for electronic filing authorization, plaintiff indicates that he has the required
3 software to participate in ECF and asserts a willingness to familiarize himself with relevant rules
4 and procedures. (ECF No. 20 at 1-2.) However, the motion does not state any good cause
5 reasons for participating in electronic filing and thus does not establish good cause for a deviation
6 from the Local Rule applicable to unrepresented litigants. Accordingly, plaintiff’s motion to
7 participate in electronic case filing is DENIED.

8 II. Plaintiff’s Motion to Amend Complaint, ECF No. 18

9 Under Federal Rule of Civil Procedure 15(a), a party may amend its pleading within 21
10 days after service of a motion under Rule 12(b) as a matter of course. Here, plaintiff was served
11 with defendant’s Rule 12(b) motion on May 2, 2023, and therefore could have amended his
12 complaint without seeking leave from the court on or before May 23, 2023. (See ECF No. 17,
13 Certificate of Service.) Plaintiff did not file any amended complaint or proposed amended
14 complaint and the deadline for plaintiff to file an amended complaint without seeking leave from
15 the court has passed.

16 In Foman v. Davis, the Supreme Court held that leave to amend should be freely granted
17 absent “undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to
18 cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by
19 virtue of allowance of the amendment, futility of amendment.” 371 U.S. 178, 182 (1962). In the
20 Ninth Circuit, courts liberally grant pro se plaintiffs leave to amend, as it is generally presumed
21 that pro se plaintiffs are unskilled in the law and are more prone to pleading errors than those
22 litigants who are represented by counsel. Lopez v. Smith, 203 F.3d 1122, 1131 (9th Cir. 2000).
23 This policy aligns with Rule 15’s underlying purpose of facilitating decisions on the merits, rather
24 than on technicalities. Noll v. Carlson, 809 F.2d 1446, 1448 (9th Cir. 1987) (internal quotation
25 marks omitted).

26 Here, there is no indication that allowing plaintiff to amend the complaint would implicate
27 any of the Foman factors. Accordingly, and considering plaintiff’s pro se status, the court
28 GRANTS plaintiff leave to amend the complaint. Plaintiff shall file an amended complaint

within 28 days of this order.

Defendant's motion to dismiss (ECF No. 15), motion to strike (ECF No. 10), and motion for a more definite statement (ECF No. 16) are DENIED as moot. The hearing scheduled for June 7, 2023 is hereby VACATED.

ORDER

It is HEREBY ORDERED that:

1. Plaintiff's motion to participate in electronic filing (ECF No. 20), is DENIED;
2. Plaintiff's motion to amend complaint (ECF No. 18), is GRANTED. Plaintiff shall file an amended complaint within 28 days of this order;
3. Defendant's motion to dismiss (ECF No. 15), motion to strike (ECF No. 10), and motion for a more definite statement (ECF No. 16) are DENIED as moot; and
4. The hearing scheduled for June 7, 2023 is hereby VACATED.

Dated: May 25, 2023


CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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